

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION**

IN RE: JOHN FANO,  
Debtor

CHAPTER 13 BANKRUPTCY  
CASE NO. 14-60728

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JOHN FANO,  
Movant

v.

Ms. JoAnn O'Brien  
P.O. Box 786  
Appomattox, VA, 24522

and

Kemper M. Beasley, III, P.C.  
Attorney At Law  
Virginia Bar #83636  
217 West Third Street, Suite 8  
Farmville, VA 23901,  
Defendant(s)

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**MOTION FOR CONTEMPT, DAMAGES AND ATTORNEY FEES**

The debtor respectfully represents unto the Court the following:

1. The debtor filed a Chapter 13 Case on April 16, 2014.
2. This is a core proceeding under the U.S. Bankruptcy Code.
3. An amended chapter 13 plan was filed on behalf of this debtor on May 22, 2014, ECF Doc #15, and the said plan was confirmed by Order of this Court on July 22, 2014, ECF Doc #20.

Reginald R. Yancey  
Counsel for Debtor(s)  
Virginia Bar #17958  
1933 Fort Avenue, Lynchburg, Virginia 24501  
P.O. Box 11908, Lynchburg, VA 24506  
Phone (434) 528-1632/ Fax (434) 846-7112  
Email: rryald@comcast.net

4. In the aforesaid amended plan that was confirmed, it provided that the mortgage lien holder, JoAnn O'Brien, who had a mortgage lien on the house and land located at 697 Mountain Cut Road, Appomattox, VA, 24522, was to be paid in full through the plan by the Chapter 13 Trustee. This claim was listed in the plan, paragraph 3.D, (Payment of Secured Claims of Property Being Detained), with an approximate debt of \$20,500.00 and an interest rate of 4%, and in paragraph number 11, page 6 thereof, "NOTE TO JOANN O'BRIEN: UPON THE COMPLETION OF THIS PLAN, YOU SHALL RELEASE THE MORTGAGE LIEN OF YOUR DEED OF TRUST AT THE CLERK'S OFFICE OF THE APPOMATTOX COUNTY CIRCUIT COURT."
5. This creditor filed a Proof of Claim, claim #6-1, filed August 8, 2014, listing a secured debt of \$20,500.00 for a Deed of Trust lien and claimed annual interest rate of 9% fixed.
6. This creditor did not object to the confirmation of the aforesaid plan.
7. The said creditor, JoAnn O'Brien, was paid in full, plus interest, as required by the confirmed plan.
8. The debtor received his Chapter 13 Discharge Order on November 26, 2018, ECF Doc #34.
9. That the secured creditor, JoAnn O'Brien, is now resisting and refusing to release her Deed of Trust lien, not unless the debtor pays what this creditor claims is unpaid interest.
10. That an Attorney Kemper Morton Beasley, III, Esquire of Lawson & Beasley, P.O. Box 757, Appomattox, Virginia 24522, has allegedly been calling the above Debtor, John Fano, demanding that he pay thousands of dollars of additional money to the aforesaid secured creditor, JoAnn O'Brien, for unpaid interest. The interest was allegedly the difference of the 9% on the filed Proof of Claim and the 4% of the confirmed plan.

11. That this case was reopen on November 25, 2020 and subsequent to the reopening, Ms. JoAnn O'Brien filed the necessary paperwork with the Clerk's Office of the Appomattox County Circuit Court to release the lien of her secured mortgage against the Debtor.
12. That on December 16, 2020, this writer received an email from Kemper M. Beasley, III, P.C., Attorney At Law, Virginia Bar #83636, 217 West Third Street, Suite 8, Farmville, VA, 23901, stating " This email to confirm that JoAnn O'Brien filed a certificate of satisfaction releasing her lien against the real estate owned by John Fano."
13. That this Debtor be awarded Ten Thousand dollars in damages and Two Thousand Five Hundred dollars in attorney fees against both JoAnn O'Brien and Kemper Morton Beasley, III, Esquire, jointly, for their violations of the Discharge Order.

**WHEREFORE**, the debtor, John Fano, by Counsel, hereby requests that he be awarded Ten Thousand dollars in damages and Two Thousand Five Hundred dollars in attorney fees against both JoAnn O'Brien and Kemper Morton Beasley, III, Esquire, jointly, for their violations of the Discharge Order; and such other relief as to Equity seems meet.

Date: 12-28-2020

JOHN FANO

/s/ Reginald R. Yancey  
Counsel

Reginald R. Yancey  
Counsel for Debtor(s)  
Virginia Bar #17958  
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**NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that the Court has fixed the date of Thursday, February 25, 2021, at 9:30 a.m., in the U.S. Bankruptcy Court, before the Honorable Judge Connelly, with all parties being connected by video conference, via ZoomGov, Meeting ID 161 331 6077 <https://www.zoomgov.com/j/1613316077>, on the Debtor(s) Motion For Contempt, Damages and Attorney Fees.

You are invited to represent your interests therein.

Date: 12-28-2020

JOHN FANO

/s/ Reginald R. Yancey  
Counsel

Reginald R. Yancey  
Counsel for Debtor(s)  
Virginia Bar #17958  
1933 Fort Avenue, Lynchburg, Virginia 24501  
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Phone (434) 528-1632/ Fax (434) 846-7112  
Email: [rryald@comcast.net](mailto:rryald@comcast.net)

**CERTIFICATION**

I, the undersigned, hereby certify that a true copy of the foregoing Motion and Notice of Hearing, was sent by the ECF System, this 28th day of December, 2020; to Herbert L. Beskin, Trustee; and by U.S. First Class Mail, postage prepaid, to John Fano, Debtor, 697 Mountain Cut Road, Appomattox, VA, 24522; Ms JoAnn O'Brien, P.O. Box 786, Appomattox, VA, 24522; and to Kemper M. Beasley, III, P.C., Attorney At Law, Virginia Bar #83636, 217 West Third Street, Suite 8, Farmville, VA, 23901.

/s/ Reginald R. Yancey